



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
17 STATE HOUSE STATION AUGUSTA, MAINE 04333-0017

DEPARTMENT ORDER

IN THE MATTER OF:

<b>BLUE RIDGE FIBERBOARD, INC'S</b>	)	<b>LICENSE</b>
<b>acquisition of Knight-Celotex, LLC's</b>	)	<b>TRANSFERS</b>
<b>fiberboard manufacturing facility</b>	)	<b>(Water Discharge;</b>
<b>in Lisbon Falls, Maine</b>	)	<b>Air Emissions)</b>

Pursuant to Maine law, the applicable provisions of 38 M.R.S.A., §§ 344(1) & (1-A), Maine DEP's *Rules Concerning the Processing of Applications*, 06-096 CMR 2; *Water Discharge Licenses* law, 38 M.R.S.A., section 413; *Protection and Improvement of Air* laws, 38 M.R.S.A., sections 581 to 608-A; and rules promulgated pursuant to these laws, the Maine DEP has considered the application of Blue Ridge Fiberboard, Inc. ("Blue Ridge") with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

**1. APPLICATION SUMMARY**

**A. Application.** Blue Ridge submitted an application to Maine DEP for the transfer of licenses. The application sought to transfer to Blue Ridge all active Maine DEP licenses, as defined in 06-096 CMR 2.1(J), any modifications, condition compliance orders, all other approvals, and all applications pending in the name of Knight-Celotex, LLC ("Knight") relating to facilities in Lisbon Falls, Maine (hereinafter referred to as the "Facility"). A schedule of permits and applications that were the subject of that application, and this Department Order, is set forth in Appendix A. Maine DEP accepted Blue Ridge's license transfer application as complete for processing on 12/21/09. Under 06-096 CMR 2.21(C)(1), before the Department may transfer a license a transferee is required to demonstrate to the Department's satisfaction the financial and technical capacity and intent to: (a) comply with all terms and conditions of the applicable license, and (b) satisfy all applicable statutory or regulatory criteria.

**B. History**

- (1) The Transaction.** On November 11, 2009, Blue Ridge and the Receiver in Bankruptcy completed a transfer of ownership for parcels of land with buildings in the Town of Lisbon Falls, Maine.
- (2) Operations.** Knight's operations in Lisbon Falls, Maine included a fiberboard manufacturing facility that ceased operating on June 10, 2009 due to bankruptcy.

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**2. TRANSFER REQUIREMENTS**

The following information regarding Knight-Celotex and Blue Ridge was submitted in support of the transfer application:

**A. Full Name and Address.** The full name and address of the new owner is:

Blue Ridge Fiberboard, Inc.  
P.O. Box 338, 300 Industrial Drive  
Hampshire, Illinois 60140-0338

**B. Certification.** Blue Ridge certifies that there will be no increase in air emissions beyond that provided for in the existing licenses, either in quantity or type.

**C. Title, Right, or Interest.** Blue Ridge submitted a Quitclaim Deed with Covenant, executed by David M. Baker, as Receiver in Bankruptcy of the assets of Lisbon Falls Property LLC, in favor of Blue Ridge, d/b/a BRF Lisbon Falls RE, LLC. The parties have provided sufficient evidence of title, right, or interest in the Facilities to allow the transfer to Blue Ridge of the Facility's licenses, permits, approvals, permits-by-rule, registrations, variances, certifications and amendments thereto, condition compliance orders, and pending applications.

**D. Financial Capacity and Intent.** Blue Ridge is a wholly-owned subsidiary of W.R. Meadows, Inc. W.R. Meadows provided evidence of its corporate financial capacity to sustain its subsidiary. Blue Ridge submitted an estimate of annual compliance-related costs for the Facility, and has demonstrated sufficient financial capacity and intent to assure compliance with all Maine DEP licenses, permits, approvals, permits-by-rule, registrations, variances, certifications and amendments thereto, condition compliance orders, pending applications, as well as any statutory and regulatory criteria applicable to the facilities.

**E. Technical Capacity and Intent.** Blue Ridge has re-hired most of the Facility's former staff to resume its operations, and has submitted resumes of employees responsible for environmental compliance which satisfactorily document their technical ability to operate the Facility in accordance with applicable laws, regulations, and license and permit conditions. The information submitted in the application provides sufficient evidence that Blue Ridge has the technical capacity and intent to comply with all Maine DEP licenses, permits, approvals, permits-by-rule, registrations, variances, certifications and amendments thereto, condition compliance orders, pending applications, and any statutory and regulatory criteria applicable to the Facility.

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BASED ON THE ABOVE FINDINGS OF FACT, the Maine DEP CONCLUDES that Blue Ridge has demonstrated the technical and financial capacity and intent to comply with the conditions of all Maine DEP licenses, permits, approvals, permits-by-rule, registrations, variances, certifications and amendments thereto, condition compliance orders and pending applications associated with the facilities described in this Order's findings, including specifically those licenses and applications listed in Appendix A, and to satisfy all applicable statutory and regulatory criteria.

THEREFORE the Maine DEP APPROVES the application of Blue Ridge Fiberboard, Inc., subject to the following conditions:

1. If the holder of the licenses detailed in this Order transfers ownership of the Facility by means of a financial transaction that would not otherwise require a new license transfer application, but as a result of which the effective operational and/or financial management of the Facility is changed, the Department will require the new owner to provide information to demonstrate that it meets the criteria for title, right, or interest; technical and financial capacity; and any other special conditions required by the Department's statutes and rules.
2. Blue Ridge shall complete corrective actions at the Facility identified by the Department in its 1/4/10 e-mail as necessary to be eligible for a No Exposure Certification under Maine's Multi-Sector General Permit for Stormwater Discharge Associated with Industrial Activity, and submit a request for Certification. As soon as Facility operations resume, Blue Ridge shall file a Notice of Intent (NOI) to comply, and simultaneously develop and implement a Stormwater Pollution Prevention Plan. The filing of the NOI shall complete fulfillment of this condition.

DONE AND DATED AT AUGUSTA, MAINE THIS 4~~TH~~ DAY OF JANUARY 2010.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: \_\_\_\_\_

David P. Littell, Commissioner

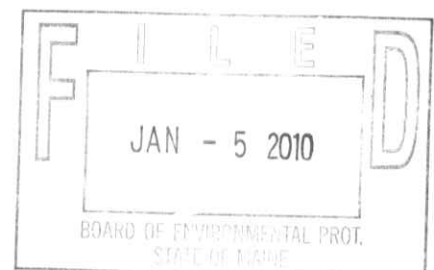
**PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES**

Date of initial receipt of application: December 18, 2009

Date application accepted for processing: December 21, 2009

Date filed with the Board of Environmental Protection \_\_\_\_\_

This order written by Malcolm C. Burson, Office of the Commissioner



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**APPENDIX A: CURRENT LICENSES AND APPLICATIONS**

<b>AIR QUALITY ORDERS</b>		
<b>NUMBER</b>	<b>DESCRIPTION</b>	<b>APPROVED</b>
<b>AIR EMISSIONS LICENSES:</b>		
A-104-70-A-I	MAJOR SOURCE AIR LICENSE	6/21/2004
A-104-70-B-R	RENEWAL	pending

<b>WATER DISCHARGE LICENSES</b>		
<b>NUMBER</b>	<b>DESCRIPTION</b>	<b>APPROVED</b>
<b>LICENSE:</b>		
W-2520-5S-F-R	NON-CONTACT COOLING WATER PERMIT: MEPDES #ME36757	3/9/2005
W-2520-5S-H-R	RENEWAL	pending



# DEP INFORMATION SHEET

## Appealing a Commissioner's Licensing Decision

Dated: May 2004

Contact: (207) 287-2811

### SUMMARY

There are two methods available to an aggrieved person seeking to appeal a licensing decision made by the Department of Environmental Protection's (DEP) Commissioner: (1) in an administrative process before the Board of Environmental Protection (Board); or (2) in a judicial process before Maine's Superior Court. This INFORMATION SHEET, in conjunction with consulting statutory and regulatory provisions referred to herein, can help aggrieved persons with understanding their rights and obligations in filing an administrative or judicial appeal.

### I. ADMINISTRATIVE APPEALS TO THE BOARD

#### **LEGAL REFERENCES**

DEP's *General Laws*, 38 M.R.S.A. § 341-D(4), and its *Rules Concerning the Processing of Applications and Other Administrative Matters* (Chapter 2), 06-096 CMR 2.24 (April 1, 2003).

#### **HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD**

The Board must receive a written notice of appeal within 30 calendar days of the date on which the Commissioner's decision was filed with the Board. Appeals filed after 30 calendar days will be rejected.

#### **HOW TO SUBMIT AN APPEAL TO THE BOARD**

Signed original appeal documents must be sent to: Chair, Board of Environmental Protection, c/o Department of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017; faxes are acceptable for purposes of meeting the deadline when followed by receipt of mailed original documents within five (5) working days. Receipt on a particular day must be by 5:00 PM at DEP's offices in Augusta; materials received after 5:00 PM are not considered received until the following day. The person appealing a licensing decision must also send the DEP's Commissioner and the applicant a copy of the documents. All the information listed in the next section must be submitted at the time the appeal is filed. Only the extraordinary circumstances described at the end of that section will justify evidence not in the DEP's record at the time of decision being added to the record for consideration by the Board as part of an appeal.

#### **WHAT YOUR APPEAL PAPERWORK MUST CONTAIN**

The materials constituting an appeal must contain the following information at the time submitted:

1. *Aggrieved Status.* Standing to maintain an appeal requires the appellant to show they are particularly injured by the Commissioner's decision.
2. *The findings, conclusions or conditions objected to or believed to be in error.* Specific references and facts regarding the appellant's issues with the decision must be provided in the notice of appeal.
3. *The basis of the objections or challenge.* If possible, specific regulations, statutes or other facts should be referenced. This may include citing omissions of relevant requirements, and errors believed to have been made in interpretations, conclusions, and relevant requirements.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license or permit to changes in specific permit conditions.

5. *All the matters to be contested.* The Board will limit its consideration to those arguments specifically raised in the written notice of appeal.
6. *Request for hearing.* The Board will hear presentations on appeals at its regularly scheduled meetings, unless a public hearing is requested and granted. A request for public hearing on an appeal must be filed as part of the notice of appeal.
7. *New or additional evidence to be offered.* The Board may allow new or additional evidence as part of an appeal only when the person seeking to add information to the record can show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process or show that the evidence itself is newly discovered and could not have been presented earlier in the process. Specific requirements for additional evidence are found in Chapter 2, Section 24(B)(5).

#### **OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD**

1. *Be familiar with all relevant material in the DEP record.* A license file is public information made easily accessible by DEP. Upon request, the DEP will make the material available during normal working hours, provide space to review the file, and provide opportunity for photocopying materials. There is a charge for copies or copying services.
2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing your appeal.* DEP staff will provide this information on request and answer questions regarding applicable requirements.
3. *The filing of an appeal does not operate as a stay to any decision.* An applicant proceeding with a project pending the outcome of an appeal runs the risk of the decision being reversed or modified as a result of the appeal.

#### **WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD**

The Board will formally acknowledge initiation of the appeals procedure, including the name of the DEP project manager assigned to the specific appeal, within 15 days of receiving a timely filing. The notice of appeal, all materials accepted by the Board Chair as additional evidence, and any materials submitted in response to the appeal will be sent to Board members along with a briefing and recommendation from DEP staff. Parties filing appeals and interested persons are notified in advance of the final date set for Board consideration of an appeal or request for public hearing. With or without holding a public hearing, the Board may affirm, amend, or reverse a Commissioner decision. The Board will notify parties to an appeal and interested persons of its decision.

#### **II. APPEALS TO MAINE SUPERIOR COURT**

Maine law allows aggrieved persons to appeal final Commissioner licensing decisions to Maine's Superior Court, see 38 M.R.S.A. § 346(1); 06-096 CMR 2.26; 5 M.R.S.A. § 11001; & MRCivP 80C. Parties to the licensing decision must file a petition for review within 30 days after receipt of notice of the Commissioner's written decision. A petition for review by any other person aggrieved must be filed within 40-days from the date the written decision is rendered. The laws cited in this paragraph and other legal procedures govern the contents and processing of a Superior Court appeal.

#### **ADDITIONAL INFORMATION**

If you have questions or need additional information on the appeal process, contact the DEP's Director of Procedures and Enforcement at (207) 287-2811.

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**Note: The DEP provides this INFORMATION SHEET for general guidance only; it is not intended for use as a legal reference. Maine law governs an appellant's rights.**

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